UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:14-cv-378-FDW

LEONARD A. GIVENS,)	
Plaintiff,)	
vs.)	<u>ORDER</u>
DAVID AARON, et al.,)	
Defendants.)	
)	

THIS MATTER is before the Court on the pro se Plaintiff's "Motion for Discovery," (Doc. No. 34). In Plaintiff's underlying action, brought under 42 U.S.C. § 1983, Plaintiff contends that various correctional officers, who were members of a Prison Emergency Response Team ("PERT") at Lanesboro Correctional Institution, used excessive force against Plaintiff and sexually assaulted him during a search of his cell on December 12, 2013. Plaintiff named three individuals as Defendants in the Complaint. Because he was not aware, at that time, of the names of all of the officers who participated in the alleged events on December 12, 2013, Plaintiff identified the officers as "John Doe 1-5" in his Complaint.

On March 31, 2015, Plaintiff filed a "Motion for Discovery," wherein he asked for assistance in obtaining the identity of the officers involved in the search on December 12, 2013. (Doc. No. 15). On May 11, 2015, the North Carolina Department of Public Safety ("NCDPS"), through counsel, responded to Plaintiff's discovery request and, pursuant to an order from the Court, provided Plaintiff with the name of six PERT team officers who were involved in the search of Plaintiff's person on December 12, 2013, to determine if Plaintiff was in possession of a contraband cellular telephone. (Doc. No. 18).

After identification by the NCDPS of the officers, summonses were issued to all of the Defendants on or about July 10, 2015. (Doc. No. 20). Since that time, summonses and the Complaint have been served on the following Defendants, including the John Doe Defendants: David Aaron, Timothy Reynolds, Louis Griffin, Matthew Boone, Manuel Zaccheus, James Bird, and John Hunt. On August 6, 2015, Plaintiff filed the pending motion, which he titled "Discovery Requests," wherein he seems to imply that he is still unaware of the names of the officers involved in the December 12, 2013, search. (Doc. No. 34). Plaintiff requests video footage of the search so that he can "identify the names of the John Doe Defendants who allegedly perpetuated the sexual assault." (Id.).

Plaintiff's motion for discovery is denied. Defendants have explained in their response to Plaintiff's motion that the names of the officers involved in the search have already been provided to Plaintiff, and summonses have already been issued by the Court to them.

Furthermore, all but one Defendant in this case has been served with the Complaint. To the extent Plaintiff seeks, through his motion, to obtain video footage of the events of December 12, 2013, such a request should be made as a discovery request, rather than as a motion, pursuant to the discovery provisions of the Federal Rules of Civil Procedure. The Court further advises Plaintiff that, because Defendants have not filed their Answer to the Complaint, discovery has not commenced. The discovery period will commence when Defendants have filed their Answers, and after this Court has entered a scheduling order, setting forth deadlines for discovery in this action. At that point, Plaintiff may then begin submitting discovery requests to Defendants.

IT IS HEREBY ORDERED that Plaintiff's "Motion for Discovery," (Doc. No. 34), is **DENIED**.

Frank D. Whitney

Chief United States District Judge